

AMENDED IN SENATE JUNE 26, 2014

AMENDED IN SENATE JULY 9, 2013

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN SENATE JUNE 11, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 793**

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**Introduced by Assembly Member Gray**

(Principal coauthor: ~~Senator Cannella~~)

(**Coauthor: Assembly Member Olsen**)

(Coauthors: *Senators Berryhill and Cannella*)

February 21, 2013

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An act to ~~amend Section 399.30 of the Public Utilities Code~~ *add Division 23.4 (commencing with Section 33400) to the Public Resources Code, relating to renewable energy: the San Joaquin Valley Groundwater Conservancy.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 793, as amended, Gray. ~~Renewable energy: publicly owned electric utility: hydroelectric generation facility. San Joaquin Valley Groundwater Conservancy.~~

*Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.*

*This bill would establish the San Joaquin Valley Groundwater Conservancy, to undertake various activities related to the San Joaquin Valley, as defined, and would prescribe the management, powers, and duties of the conservancy. The bill would create the San Joaquin Valley Groundwater Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, for the purposes of the conservancy.*

~~The California Renewables Portfolio Standard Program, referred to as the RPS program, requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period from January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. The RPS program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified, referred to as portfolio content requirements.~~

~~This bill would provide that a local publicly owned electric utility is not required to procure additional eligible renewable energy resources in excess of specified levels, if it receives 50% or greater of its annual retail sales from its own hydroelectric generation meeting specified requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 *SECTION 1. Division 23.4 (commencing with Section 33400)*
- 2 *is added to the Public Resources Code, to read:*

1     *DIVISION 23.4. SAN JOAQUIN VALLEY GROUNDWATER*  
2                     *CONSERVANCY*

3  
4             *CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS*

5  
6     33400. *This division shall be known, and may be cited, as the*  
7 *San Joaquin Valley Groundwater Conservancy Act.*

8     33401. *The Legislature finds and declares all of the following:*

9     (a) *The San Joaquin Valley is a globally significant area, rich*  
10 *in agricultural production, which provides food for domestic*  
11 *consumption and sale abroad.*

12     (b) *The San Joaquin Valley is an important part of the state's*  
13 *economy, contributing billions of dollars a year to the state's gross*  
14 *domestic product through, among other things, the production of*  
15 *agricultural products, timber resources, ranching, mining, tourism,*  
16 *and recreation.*

17     (c) *Groundwater has enabled the San Joaquin Valley to become*  
18 *one of the most productive agricultural regions in the nation, and*  
19 *overdraft of this precision resource has the potential to harm the*  
20 *short- and long-term viability of agricultural production in the*  
21 *San Joaquin Valley.*

22     (d) *In cooperation with local governments, private business,*  
23 *nonprofit organizations, and the public, a San Joaquin Valley*  
24 *Groundwater Conservancy can help do all of the following:*

25     (1) *Provide increased opportunities for responsible groundwater*  
26 *management.*

27     (2) *Protect, conserve, and restore the region's underground*  
28 *aquifers and surface water resources.*

29     (3) *Reduce the risk of groundwater overdraft, including the risk*  
30 *of subsidence.*

31     (4) *Protect and improve water quality.*

32     (5) *Assist the regional economy through the operation of the*  
33 *conservancy's program.*

34     (6) *Identify the highest priority projects and initiatives for which*  
35 *funding is needed.*

36     (7) *Support efforts that advance both groundwater management*  
37 *and the economic well-being of San Joaquin Valley residents in a*  
38 *complementary manner.*

39     33402. *For the purposes of this division, the following terms*  
40 *have the following meanings:*

1 (a) “Board” means the Governing Board of the San Joaquin  
2 Valley Groundwater Conservancy.

3 (b) “Conservancy” means the San Joaquin Valley Groundwater  
4 Conservancy.

5 (c) “Fund” means the San Joaquin Valley Groundwater  
6 Conservancy Fund created pursuant to Section 33455.

7 (d) “Local public agency” means a city, county, district, or  
8 joint powers authority.

9 (e) “Nonprofit organization” means a private, nonprofit  
10 organization that qualifies for exempt status under Section  
11 501(c)(3) of Title 26 of the United States Code, and whose  
12 charitable purposes are consistent with the purposes of the  
13 conservancy as set forth in this division.

14 (f) “Region” or “San Joaquin Valley” means the area lying  
15 within the Counties of Fresno, Kern, Kings, Madera, Merced, San  
16 Joaquin, Stanislaus, and Tulare.

17 (g) “Tribal organization” means an Indian tribe, band, nation,  
18 or other organized group or community, or a tribal agency  
19 authorized by a tribe, which is recognized as eligible for special  
20 programs and services provided by the United States to Indians  
21 because of their status as Indians and is identified on pages 47868  
22 to 47873, inclusive, of Number 155 of Volume 77 (August 10, 2012)  
23 of the Federal Register, as that list may be updated or amended  
24 from time to time.

25  
26 *CHAPTER 2. SAN JOAQUIN VALLEY GROUNDWATER*  
27 *CONSERVANCY*  
28

29 33420. There is in the Resources Agency the San Joaquin  
30 Valley Groundwater Conservancy, which is created as a state  
31 agency to do all of the following, working in collaboration and  
32 cooperation with local governments and interested parties:

33 (a) Provide increased opportunities for tourism and recreation.

34 (b) Protect, conserve, and restore the region’s underground  
35 aquifers and surface water resources.

36 (c) Reduce the risk of groundwater overdraft, including the risk  
37 of subsidence.

38 (d) Protect and improve water quality.

39 (e) Assist the regional economy through the operation of the  
40 conservancy’s program.

1     (f) *Identify the highest priority projects and initiatives for which*  
2 *funding is needed.*

3     (g) *Undertake efforts to enhance sustainable groundwater*  
4 *management.*

5     (h) *Support efforts that advance both groundwater management*  
6 *and the economic well-being of San Joaquin Valley residents in a*  
7 *complementary manner.*

8     (i) *Provide opportunities for adoption and promotion of water*  
9 *use efficiency projects, especially as they reduce the risk of*  
10 *groundwater overdraft, including, but not limited to, drip irrigation*  
11 *projects.*

12     33421. (a) *The board shall consist of 15 voting members and*  
13 *three nonvoting liaison advisers, appointed or designated as*  
14 *follows:*

15     (1) *The 15 voting members of the board shall consist of all of*  
16 *the following:*

17     (A) *The Secretary of the Resources Agency, or his or her*  
18 *designee.*

19     (B) *The Director of Finance, or his or her designee.*

20     (C) *Three public members appointed by the Governor, who are*  
21 *not elected officials, to represent statewide interests.*

22     (D) *One public member appointed by the Speaker of the*  
23 *Assembly, who is not an elected official, to represent statewide*  
24 *interests.*

25     (E) *One public member appointed by the Senate Committee on*  
26 *Rules, who is not an elected official, to represent statewide*  
27 *interests.*

28     (F) *One member for each of the eight counties which make up*  
29 *the San Joaquin Valley, who shall be a member of the board of*  
30 *supervisors of their respective county. Each member shall be*  
31 *selected by the counties, according to the following procedure:*

32     (i) *Each county board of supervisors shall select a member of*  
33 *their board to be appointed as a member of the conservancy board.*  
34 *An alternative member may also be appointed.*

35     (ii) *The initial appointment of a member for each county shall*  
36 *be made no later than March 1, 2015. A subsequent appointment*  
37 *to a regular term on the board shall be made before the date*  
38 *specified in Section 33422 for the commencement of that term. A*  
39 *vacancy occurring before the end of a term shall be filled for the*  
40 *remainder of the term within 60 days of the vacancy.*

1     (iii) If the board of supervisors of a county does not appoint a  
2     member to the board within the timeframe specified in clause (ii),  
3     the Governor shall appoint one of the supervisors to serve as the  
4     board member for the county.

5     (2) The three nonvoting liaison advisers who serve in an  
6     advisory, nonvoting capacity shall consist of all of the following:

7     (A) One representative of the United States Geologic Survey,  
8     designated by the Administrator of the United States Secretary of  
9     the Interior.

10    (B) One representative of the United States Environmental  
11    Protection Agency, designated by the Administrator of the United  
12    States Environmental Protection Agency.

13    (C) One representative of the United States Department of  
14    Agriculture, designated by the United States Secretary of  
15    Agriculture.

16    (b) Appointing powers shall seek to include individuals from a  
17    breadth of backgrounds.

18    33422. Members and alternates, if any, shall serve terms as  
19    follows:

20    (a) The members appointed pursuant to subparagraphs (C) to  
21    (E), inclusive, of paragraph (1) of subdivision (a) of Section 33421  
22    shall serve at the pleasure of the appointing power.

23    (b) The members and alternates, if any, appointed under  
24    subparagraph (F) of paragraph (1) of subdivision (a) of Section  
25    33421 shall serve, as follows:

26    (1) Members and alternates in the Counties of Madera, Merced,  
27    Stanislaus, and San Joaquin shall have terms beginning on January  
28    1 in an odd-numbered year and ending on December 31 of the  
29    following even-numbered year. All terms shall be for two years.

30    (2) Members and alternates in the Counties of Fresno, Kings,  
31    Tulare, and Kern shall have terms beginning on January 1 in an  
32    even-numbered year and ending on December 31 in the following  
33    odd-numbered year. Members and alternates who are initially  
34    appointed to the board shall serve for a one-year term for the first  
35    year. Subsequent terms shall be for two years.

36    (c) No member of the board, whose appointment to the board  
37    was contingent upon meeting a condition of eligibility under this  
38    division, shall serve beyond the time when the member ceases to  
39    meet that condition.

1     33423. (a) *The voting members appointed or designated under*  
2 *paragraph (1) of subdivision (a) of Section 33421 who are not*  
3 *state employees shall be compensated for attending meetings of*  
4 *the conservancy at the rate of one hundred dollars (\$100) per*  
5 *scheduled meeting day.*

6     (b) *All members of the board shall be reimbursed for their actual*  
7 *and necessary expenses, including travel expenses, incurred in*  
8 *attending meetings of the conservancy and carrying out the duties*  
9 *of their office.*

10    33424. *Annually, the voting members of the board shall elect*  
11 *from among the voting members a chairperson and*  
12 *vice-chairperson, and other officers as necessary. If the office of*  
13 *the chairperson or vice-chairperson becomes vacant, a new*  
14 *chairperson or vice-chairperson shall be elected by the voting*  
15 *members of the board to serve for the remainder of the term.*

16    33425. (a) *Eight members of the voting members shall*  
17 *constitute a quorum for the transaction of the business of the*  
18 *conservancy. The board shall not transact the business of the*  
19 *conservancy if a quorum is not present at the time a vote is taken.*  
20 *A decision of the board requires an affirmative vote of seven of*  
21 *the voting members, and the vote is binding with respect to all*  
22 *matters acted on by the conservancy.*

23    (b) *The board shall adopt rules, regulations, and procedures*  
24 *for the conduct of business by the conservancy.*

25    (c) *The voting members of the board appointed or designated*  
26 *pursuant to paragraph (1) of subdivision (a) of Section 33421 and*  
27 *the nonvoting advisers selected pursuant to paragraph (2) of*  
28 *subdivision (a) of Section 33421, shall have the right to attend all*  
29 *meetings of the board, including closed sessions.*

30    33426. *The board may establish advisory boards or committees,*  
31 *hold community meetings, and engage in public outreach using*  
32 *advanced forms of technology, in order to facilitate the*  
33 *decisionmaking process. Members of advisory boards or*  
34 *committees may be reimbursed for the actual and necessary*  
35 *expenses, including travel expenses, that they incur in attending*  
36 *regular meetings of the advisory board or committee of which they*  
37 *are a member.*

38    33427. *The board shall establish and maintain a headquarters*  
39 *office within the region. Except as provided in Section 33447, the*

1 conservancy may rent or own real and personal property and  
2 equipment pursuant to applicable statutes and regulations.

3 33428. The board shall determine the qualifications of, and  
4 shall appoint, an executive officer of the conservancy, who shall  
5 be exempt from civil service. The board shall employ other staff  
6 as necessary to execute the powers and functions provided for  
7 under this division.

8 33429. The board may enter into contracts with private entities  
9 and public agencies to procure consulting and other services  
10 necessary to achieve the purposes of this division.

11 33430. The conservancy's expenses for support and  
12 administration may be paid from the conservancy's operating  
13 budget and any other funding sources available to the conservancy.

14 33431. The board shall conduct business in accordance with  
15 the requirements of the Bagley-Keene Open Meeting Act (Article  
16 9 (commencing with Section 11120) of Chapter 1 of Part 1 of  
17 Division 3 of Title 2 of the Government Code).

18 33432. The board shall hold its regular meetings within the  
19 San Joaquin Valley.

20 33433. On and after January 1, 2015, the board shall post  
21 agendas for each board meeting on the Internet.

22  
23 *CHAPTER 3. POWERS, DUTIES, AND LIMITATIONS*  
24

25 33440. The conservancy's jurisdiction is limited to the San  
26 Joaquin Valley.

27 33441. The conservancy shall carry out projects and activities  
28 to further the purposes of this division throughout the region. The  
29 board shall make every effort to ensure that, over time, conservancy  
30 funding and other efforts are spread equitably across each of the  
31 counties and among the stated goal areas, with adequate allowance  
32 for the variability of costs associated with individual counties and  
33 types of projects.

34 33442. In carrying out this division, the conservancy shall  
35 cooperate with and consult with the city or county where a grant  
36 is proposed or an interest in real property is proposed to be  
37 acquired; and shall, as necessary or appropriate, coordinate its  
38 efforts with other state agencies, in cooperation with the Secretary  
39 of the Resources Agency. The conservancy shall, as necessary and  
40 appropriate, cooperate and consult with a public water system



1 *that owns or operates facilities, including lands appurtenant*  
2 *thereto, where a grant is proposed or an interest in land is*  
3 *proposed to be acquired.*

4 33443. (a) *The conservancy may make grants or loans to*  
5 *public agencies, nonprofit organizations, and tribal organizations*  
6 *in order to carry out the purposes of this division, including grants*  
7 *or loans provided to acquire an interest in real property, including*  
8 *a fee interest in that property. Grant or loan funds shall be*  
9 *disbursed to a recipient entity only after the entity has entered into*  
10 *an agreement with the conservancy, on the terms and conditions*  
11 *specified by the conservancy. After approving a grant, the*  
12 *conservancy may assist the grantee in carrying out the purposes*  
13 *of the grant.*

14 (b) *When awarding grants or making loans pursuant to this*  
15 *division, the conservancy may require repayment of those funds*  
16 *on the terms and conditions it deems appropriate. Proceeds from*  
17 *the repayment or reimbursement of amounts granted or loaned by*  
18 *the conservancy shall be deposited in the fund.*

19 (c) *An entity applying for a grant from the conservancy to*  
20 *acquire an interest in real property shall specify all of the following*  
21 *in the grant application:*

22 (1) *The intended use of the property.*

23 (2) *The manner in which the land will be managed.*

24 (3) *How the cost of ongoing management will be funded.*

25 (d) *Funds expended for the purposes of subdivision (i) of Section*  
26 *33420 shall be used to provide low-interest loans to help finance*  
27 *those projects. The conservancy may require repayment of those*  
28 *funds on the terms and conditions it deems appropriate. Proceeds*  
29 *from the repayment of amounts loaned by the conservancy shall*  
30 *be deposited into the fund.*

31 33444. *In the case of a grant of funds to a nonprofit*  
32 *organization or tribal organization to acquire an interest in real*  
33 *property, including, but not limited to, a fee interest, the agreement*  
34 *between the conservancy and the recipient nonprofit organization*  
35 *shall require all of the following:*

36 (a) *The purchase price of an interest in real property acquired*  
37 *by the nonprofit organization shall not exceed fair market value*  
38 *as established by an appraisal approved by the conservancy.*

39 (b) *The terms under which the interest in real property is*  
40 *acquired shall be subject to the conservancy's approval.*

1     (c) An interest in real property to be acquired under the grant  
2 shall not be used as security for a debt unless the conservancy  
3 approves the transaction.

4     (d) The transfer of an interest in the real property shall be  
5 subject to approval of the conservancy, and a new agreement  
6 sufficient to protect the public interest shall be entered into between  
7 the conservancy and the transferee.

8     (e) A deed or instrument by which the nonprofit organization  
9 acquires an interest in real property under the grant shall include  
10 a power of termination on the part of the state, subject to the  
11 requirements of Chapter 5 (commencing with Section 885.010) of  
12 Title 5 of Part 2 of Division 2 of the Civil Code. The deed or  
13 instrument shall provide that the state may exercise the power of  
14 termination by notice in the event of the nonprofit organization's  
15 violation of the purpose of the grant through breach of a material  
16 term or condition thereof, and that, upon recordation of the notice,  
17 full title to the interest in real property identified in the notice shall  
18 immediately vest in the state, or in another public agency or a  
19 nonprofit organization designated by the conservancy to which  
20 the state conveys or has conveyed its interest.

21     (f) A deed or instrument by which the nonprofit organization  
22 acquires an interest in real property under the grant shall provide  
23 that the conveyance is subject to a remainder interest vested in  
24 the state. If the existence of the nonprofit organization is terminated  
25 for any reason, the conservancy may require that the remainder  
26 shall become a present interest and that full title to the real  
27 property shall vest in the state, or in another public agency or a  
28 nonprofit organization designated by the conservancy to which  
29 the state conveys or has conveyed its interest.

30     33445. The conservancy shall adopt guidelines setting priorities  
31 and criteria for projects and programs, based upon its assessment  
32 of program requirements, institutional capabilities, and funding  
33 needs throughout the region, and federal, state, and local plans,  
34 including general plans, recreation plans, urban water  
35 management plans, and groundwater management plans. As part  
36 of the process of developing guidelines for projects and programs,  
37 the conservancy shall undertake and facilitate a strategic program  
38 planning process involving meetings and workshops within each  
39 of the subregions, with the purpose of formulating strategic  
40 program objectives and priorities within that subregion. The

1 *strategic program shall be updated regularly, at least once every*  
2 *five years.*

3 *33445.5. In granting funds pursuant to this division, the board*  
4 *shall give priority to proposals that include matching funds from*  
5 *local sources.*

6 *33446. (a) The conservancy may expend funds and award*  
7 *grants and loans to facilitate collaborative planning efforts and*  
8 *to develop projects and programs that are designed to further the*  
9 *purposes of this division.*

10 *(b) The conservancy may provide and make available technical*  
11 *information, expertise, and other nonfinancial assistance to public*  
12 *agencies, nonprofit organizations, and tribal organizations, to*  
13 *support program and project development and implementation.*

14 *(c) The recipient of a grant or loan provided by the conservancy*  
15 *pursuant to this division for the acquisition of real property shall*  
16 *provide for the management of the real property to be acquired*  
17 *as specified in the grant agreement.*

18 *33446.5. The conservancy may apply for and receive grants*  
19 *to carry out the purposes of this division.*

20 *33447. (a) The conservancy may acquire an interest in any*  
21 *real property in order to carry out the purposes of this division.*  
22 *However, the conservancy shall not acquire a fee interest in real*  
23 *property by purchase.*

24 *(b) The acquisition of an interest in real property under this*  
25 *section is not subject to the Property Acquisition Law (Part 11*  
26 *(commencing with Section 15850) of Division 3 of Title 2 of the*  
27 *Government Code), unless the value of the interest exceeds two*  
28 *hundred fifty thousand dollars (\$250,000) per lot or parcel, as*  
29 *adjusted for annual changes to the Consumer Price Index for the*  
30 *State of California, as calculated by the Department of Finance.*  
31 *However, the conservancy may request the State Public Works*  
32 *Board to review and approve specific acquisitions.*

33 *(c) The conservancy shall not exercise the power of eminent*  
34 *domain.*

35 *33448. Notwithstanding Section 11005.2 of the Government*  
36 *Code or any other provision of law, the conservancy may lease,*  
37 *rent, sell, exchange, or otherwise transfer, an interest, option, or*  
38 *contractual right in real property, as well as a vested right*  
39 *severable therefrom, that has been acquired under this division,*

1 to a person or entity, subject to terms and conditions in furtherance  
2 of the conservancy's purposes.

3 33449. (a) The conservancy shall take whatever actions are  
4 reasonably necessary and incidental to the management of lands  
5 or interests in lands under its ownership or control, and may  
6 initiate, negotiate, and participate in agreements for the  
7 management of those lands or interests with public agencies or  
8 private individuals or entities.

9 (b) The conservancy may improve, restore, or enhance lands  
10 for the purpose of protecting the natural environment, improving  
11 public enjoyment of or public access to public lands, enhance the  
12 availability of groundwater for beneficial and sustainable use, or  
13 to otherwise meet the objectives of this division, and may carry  
14 out the planning and design of those improvements or other  
15 measures.

16 (c) The conservancy may enter into an agreement with a public  
17 agency, nonprofit organization, or private entity, for the  
18 construction, management, or maintenance of facilities authorized  
19 by the conservancy.

20 33450. (a) Notwithstanding Section 10231.5 of the Government  
21 Code, the conservancy shall make an annual report to the  
22 Legislature and to the Secretary of the Resources Agency regarding  
23 expenditures, land management costs, and administrative costs.

24 (b) A report to be submitted pursuant to subdivision (a) shall  
25 be submitted in compliance with Section 9795 of the Government  
26 Code.

27 33451. The conservancy may expend funds under this division  
28 to conduct research and monitoring in connection with  
29 development and implementation of the program administered  
30 under this division.

31 33452. (a) The conservancy may receive gifts, donations,  
32 bequests, devises, subventions, grants, rents, royalties, and other  
33 assistance and funds from public and private sources.

34 (b) Except as provided in Section 33447, the conservancy may  
35 receive an interest in real or personal property through transfer,  
36 succession, or other mode of acquisition generally recognized by  
37 law.

38 (c) All funds or income received by the conservancy shall be  
39 deposited in the fund for expenditure for the purposes of this  
40 division.

1     33453. *The conservancy may fix and collect a fee for a direct*  
2 *service it renders, if the service is rendered at the request of the*  
3 *individual or entity receiving the service. The amount of a fee shall*  
4 *not exceed the conservancy's reasonable costs and expenses of*  
5 *providing the service rendered. All fees received by the*  
6 *conservancy shall be deposited in the fund for expenditure for the*  
7 *purposes of this division.*

8     33454. *Proceeds from a lease, rental, sale, exchange, or*  
9 *transfer of an interest or option in real property, and all other*  
10 *income, shall be deposited in the fund for expenditure for the*  
11 *purposes of this division.*

12     33455. *The San Joaquin Valley Groundwater Conservancy*  
13 *Fund is hereby created in the State Treasury. Moneys in the fund*  
14 *shall be available, upon appropriation by the Legislature, only*  
15 *for the purposes of this division.*

16     33456. *Nothing in this division grants to the conservancy:*

17     (a) *Any of the powers of a city or county to regulate land use.*

18     (b) *Any powers to regulate any activities on land, except as the*  
19 *owner of an interest in the land, or pursuant to an agreement with,*  
20 *or a license or grant of management authority from, the owner of*  
21 *an interest in the land.*

22     (c) *Any powers over water rights held by others.*

23     ~~SECTION 1. Section 399.30 of the Public Utilities Code is~~  
24 ~~amended to read:~~

25     ~~399.30. (a) To fulfill unmet long-term generation resource~~  
26 ~~needs, each local publicly owned electric utility shall adopt and~~  
27 ~~implement a renewable energy resources procurement plan that~~  
28 ~~requires the utility to procure a minimum quantity of electricity~~  
29 ~~products from eligible renewable energy resources, including~~  
30 ~~renewable energy credits, as a specified percentage of total~~  
31 ~~kilowatthours sold to the utility's retail end-use customers, each~~  
32 ~~compliance period, to achieve the targets of subdivision (c):~~

33     ~~(b) The governing board shall implement procurement targets~~  
34 ~~for a local publicly owned electric utility that require the utility to~~  
35 ~~procure a minimum quantity of eligible renewable energy resources~~  
36 ~~for each of the following compliance periods:~~

37     ~~(1) January 1, 2011, to December 31, 2013, inclusive.~~

38     ~~(2) January 1, 2014, to December 31, 2016, inclusive.~~

39     ~~(3) January 1, 2017, to December 31, 2020, inclusive.~~

1     ~~(e) The governing board of a local publicly owned electric utility~~  
2     ~~shall ensure all of the following:~~

3     ~~(1) The quantities of eligible renewable energy resources to be~~  
4     ~~procured for the compliance period from January 1, 2011, to~~  
5     ~~December 31, 2013, inclusive, are equal to an average of 20 percent~~  
6     ~~of retail sales.~~

7     ~~(2) The quantities of eligible renewable energy resources to be~~  
8     ~~procured for all other compliance periods reflect reasonable~~  
9     ~~progress in each of the intervening years sufficient to ensure that~~  
10    ~~the procurement of electricity products from eligible renewable~~  
11    ~~energy resources achieves 25 percent of retail sales by December~~  
12    ~~31, 2016, and 33 percent of retail sales by December 31, 2020.~~  
13    ~~The local governing board shall require the local publicly owned~~  
14    ~~electric utilities to procure not less than 33 percent of retail sales~~  
15    ~~of electricity products from eligible renewable energy resources~~  
16    ~~in all subsequent years.~~

17    ~~(3) A local publicly owned electric utility shall adopt~~  
18    ~~procurement requirements consistent with Section 399.16.~~

19    ~~(d) The governing board of a local publicly owned electric utility~~  
20    ~~may adopt the following measures:~~

21    ~~(1) Rules permitting the utility to apply excess procurement in~~  
22    ~~one compliance period to subsequent compliance periods in the~~  
23    ~~same manner as allowed for retail sellers pursuant to Section~~  
24    ~~399.13.~~

25    ~~(2) Conditions that allow for delaying timely compliance~~  
26    ~~consistent with subdivision (b) of Section 399.15.~~

27    ~~(3) Cost limitations for procurement expenditures consistent~~  
28    ~~with subdivision (c) of Section 399.15.~~

29    ~~(e) The governing board of the local publicly owned electric~~  
30    ~~utility shall adopt a program for the enforcement of this article on~~  
31    ~~or before January 1, 2012. The program shall be adopted at a~~  
32    ~~publicly noticed meeting offering all interested parties an~~  
33    ~~opportunity to comment. Not less than 30 days' notice shall be~~  
34    ~~given to the public of any meeting held for purposes of adopting~~  
35    ~~the program. Not less than 10 days' notice shall be given to the~~  
36    ~~public before any meeting is held to make a substantive change to~~  
37    ~~the program.~~

38    ~~(f) (1) Each local publicly owned electric utility shall annually~~  
39    ~~post notice, in accordance with Chapter 9 (commencing with~~  
40    ~~Section 54950) of Part 1 of Division 2 of Title 5 of the Government~~

Code, whenever its governing body will deliberate in public on its renewable energy resources procurement plan.

(2) Contemporaneous with the posting of the notice of a public meeting to consider the renewable energy resources procurement plan, the local publicly owned electric utility shall notify the Energy Commission of the date, time, and location of the meeting in order to enable the Energy Commission to post the information on its Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to this information.

(3) Upon distribution to its governing body of information related to its renewable energy resources procurement status and future plans, for its consideration at a noticed public meeting, the local publicly owned electric utility shall make that information available to the public and shall provide the Energy Commission with an electronic copy of the documents for posting on the Energy Commission's Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to the documents or information regarding other manners of access to the documents.

(g) A public utility district that receives all of its electricity pursuant to a preference right adopted and authorized by the United States Congress pursuant to Section 4 of the Trinity River Division Act of August 12, 1955 (Public Law 84-386) shall be in compliance with the renewable energy procurement requirements of this article.

(h) For a local publicly owned electric utility that was in existence on or before January 1, 2009, that provides retail electric service to 15,000 or fewer customer accounts in California, and is interconnected to a balancing authority located outside this state but within the WECC, an eligible renewable energy resource includes a facility that is located outside California that is connected to the WECC transmission system, if all of the following conditions are met:

(1) The electricity generated by the facility is procured by the local publicly owned electric utility, is delivered to the balancing authority area in which the local publicly owned electric utility is located, and is not used to fulfill renewable energy procurement requirements of other states.

~~(2) The local publicly owned electric utility participates in, and complies with, the accounting system administered by the Energy Commission pursuant to this article.~~

~~(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the renewables portfolio standard procurement requirements.~~

~~(i) Notwithstanding subdivision (a), for a local publicly owned electric utility that is a joint powers authority of districts established pursuant to state law on or before January 1, 2005, that furnish electric services other than to residential customers, and is formed pursuant to the Irrigation District Law (Division 11 (commencing with Section 20500) of the Water Code), the percentage of total kilowatthours sold to the district's retail end-use customers, upon which the renewables portfolio standard procurement requirements in subdivision (b) are calculated, shall be based on the authority's average retail sales over the previous seven years. If the authority has not furnished electric service for seven years, then the calculation shall be based on average retail sales over the number of completed years during which the authority has provided electric service.~~

~~(j) A local publicly owned electric utility in a city and county that only receives greater than 67 percent of its electricity sources from hydroelectric generation located within the state that it owns and operates, and that does not meet the definition of a "renewable electrical generation facility" pursuant to Section 25741 of the Public Resources Code, shall be required to procure eligible renewable energy resources, including renewable energy credits, to meet only the electricity demands unsatisfied by its hydroelectric generation in any given year, in order to satisfy its renewable energy procurement requirements.~~

~~(k) (1) A local publicly owned electric utility that receives greater than 50 percent of its annual retail sales from its own hydroelectric generation that is not an eligible renewable energy resource shall not be required to procure additional eligible renewable energy resources in excess of either of the following:~~

~~(A) The portion of its retail sales not supplied by its own hydroelectric generation. For these purposes, retail sales supplied by increased hydroelectric generation resulting from an increase in the amount of water stored by a dam because the dam is enlarged or otherwise modified after December 31, 2012, shall not count~~



1 as being retail sales supplied by the utility's own hydroelectric  
2 generation.

3 (B) The cost limitation adopted pursuant to this section.

4 (2) For the purposes of this subdivision, "hydroelectric  
5 generation" means electricity generated from a hydroelectric  
6 facility satisfying all of the following:

7 (A) Is owned solely and operated by the local publicly owned  
8 electric utility as of 1967.

9 (B) Serves a local publicly owned electric utility with a  
10 distribution system demand of less than 150 megawatts.

11 (C) Involves a contract in which an electrical corporation  
12 receives the benefit of the electric generation through June of 2014,  
13 at which time the benefit reverts back to the ownership and control  
14 of the local publicly owned electric utility.

15 (D) Has a maximum penstock flow capacity of no more than  
16 3,200 cubic feet per second and includes a regulating reservoir  
17 with a small hydroelectric generation facility producing fewer than  
18 20 megawatts with a maximum penstock flow capacity of no more  
19 than 3,000 cubic feet per second.

20 (3) This subdivision does not reduce or eliminate any renewable  
21 procurement requirement for any compliance period ending prior  
22 to January 1, 2014.

23 (4) This subdivision does not require a local publicly owned  
24 electric utility to purchase additional renewable energy resources  
25 in excess of the renewable procurement requirements set forth in  
26 subdivision (c).

27 (l) A local publicly owned electric utility shall retain discretion  
28 over both of the following:

29 (1) The mix of eligible renewable energy resources procured  
30 by the utility and those additional generation resources procured  
31 by the utility for purposes of ensuring resource adequacy and  
32 reliability.

33 (2) The reasonable costs incurred by the utility for eligible  
34 renewable energy resources owned by the utility.

35 (m) On or before July 1, 2011, the Energy Commission shall  
36 adopt regulations specifying procedures for enforcement of this  
37 article. The regulations shall include a public process under which  
38 the Energy Commission may issue a notice of violation and  
39 correction against a local publicly owned electric utility for failure  
40 to comply with this article, and for referral of violations to the

~~State Air Resources Board for penalties pursuant to subdivision (o):~~

~~(n) (1) Upon a determination by the Energy Commission that a local publicly owned electric utility has failed to comply with this article, the Energy Commission shall refer the failure to comply with this article to the State Air Resources Board, which may impose penalties to enforce this article consistent with Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code. Any penalties imposed shall be comparable to those adopted by the commission for noncompliance by retail sellers.~~

~~(2) If Division 25.5 (commencing with Section 38500) of the Health and Safety Code is suspended or repealed, the State Air Resources Board may take action to enforce this article on local publicly owned electric utilities consistent with Section 41513 of the Health and Safety Code, and impose penalties on a local publicly owned electric utility consistent with Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26 of the Health and Safety Code.~~

~~(3) For the purpose of this subdivision, this section is an emissions reduction measure pursuant to Section 38580 of the Health and Safety Code.~~

~~(4) If the State Air Resources Board has imposed a penalty upon a local publicly owned electric utility for the utility's failure to comply with this article, the State Air Resources Board shall not impose an additional penalty for the same infraction, or the same failure to comply, with any renewables procurement requirement imposed upon the utility pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).~~

~~(5) Any penalties collected by the State Air Resources Board pursuant to this article shall be deposited in the Air Pollution Control Fund and, upon appropriation by the Legislature, shall be expended for reducing emissions of air pollution or greenhouse gases within the same geographic area as the local publicly owned electric utility.~~

~~(o) The commission has no authority or jurisdiction to enforce any of the requirements of this article on a local publicly owned electric utility.~~

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